

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

(Attorney Docket No. 14168US02)

In the Application of:

Jeyhan Karaoguz

Serial No. 10/658,727

Filed: September 9, 2003

For: SYSTEM AND METHOD FOR
PROVIDING A WIRELESS
ACCESS POINT (WAP) HAVING
MULTIPLE INTEGRATED
TRANSCEIVERS FOR USE IN A
HYBRID WIRED/WIRELESS
NETWORK

Examiner: Jung H. Park

Group Art Unit: 2465

Confirmation No. 2798

Electronically Filed on October 7, 2010

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicant requests review of the final rejection in the above-identified application, stated in the final Office Action mailed on July 7, 2010 ("Final Office Action") with a period of reply through October 7, 2010. The Applicant also requests review of the arguments stated in page 2 of the Advisory Office Action mailed on September 23, 2010 ("Advisory Office Action"). No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is being requested for the reasons stated on the attached sheets.

REMARKS / ARGUMENTS

Claims 1-31 are pending in the instant application. Claims 1, 10-11 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable by USPP 2004/0039817 ("Lee") in view of USPP 2002/0045435 ("Fantaske"). Claims 2-9, 12-19 and 21-31 are rejected

under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of Fantaske and USP 7,058,040 ("Schmidt"). The Applicant respectfully traverses these rejections at least based on the following remarks.

I. Examiner's Response to Arguments in the Final and Advisory Office Actions

With regard to the rejection of independent claim 1 under 35 U.S.C. § 103(a), the Applicant maintains that the combination of the combination of Lee and Fantaske does not disclose or suggest at least the limitation of "determining by an access point, a protocol associated with a communication signal for said access point," or "allocating a processor within said access point, said processor compatible with said determined protocol," or "processing said communication signal by said allocated processor within said access point," as recited in Applicant's claim 1.

In the 9/2/2010 response to Final Office Action, the Applicant argued the following:

I-A(1): Lee does not disclose that the BSS (the alleged "AP") performs the protocol determination for the AP itself, upon receiving the communication signal (from the wireless station). Accordingly, Lee at least does not disclose or suggest "determining by an access point, a protocol associated with a communication signal for said access point;" as recited in Applicant's claim 1. In fact, Lee teaches away from Applicant's claim 1.

I-A(2): Since Lee (see steps 118-130) discloses it is the wireless station (not the AP) which performs all the steps, such as determining by matching the AP protocol to its wireless station protocol, and the AP selection, therefore, Lee also does not disclose or suggest "allocating a processor within said access point, said processor compatible with said determined protocol", or "processing said communication signal by said allocated processor within said access point," as recited in Applicant's claim 1.

I-A(3): Lee also does not disclose any details about the AP, such as the alleged "processor within the AP", let alone the alleged "allocated processor within the access point".

The Examiner states the following in the Advisory Office Action:

"...with regarding to "determining by an access point", Lee discloses the method of selecting AP based on the determined protocol in mobile station as shown in Figure 1 and described paragraph [0059]. An access point (AP) is a land station or a mobile station carrying on a service for mobile stations and/or communicating with other APs."

I-A(4): The Examiner, by his own admission, seems to at least agree with the Applicant that **Lee discloses that it is the mobile station, not the access point (AP), which performs the alleged "protocol determination"**. The Examiner, however, alleges that "**an AP is a land station or a mobile station...**" In other words, the Examiner

has equated Lee's AP and Lee's mobile station being the same. The Examiner's above interpretation is unsupported and, in fact, contrary to Lee's disclosure.

For example, Lee (see Lee's col. 2, lines 5-7) discloses that a mobile station is a wireless station, such as laptop, a handheld device or a PDA. Lee also discloses that an AP interfaces with a distribution system for the associated wireless stations. In other words, **Lee's work stations must go through the AP in order to gain access to the distribution system**. In this regard, by alleging that the wireless station is also an AP, the Examiner, in effect, alleges that Lee's wireless stations can communicate directly to the distribution system, without even taking the steps (see Lee's Figs. 1-7) of selecting an AP by determining and matching the appropriate protocol of the AP to the work station. At least in this respect, the Examiner's argument that Lee discloses or suggests "determining by an access point, a protocol associated with a communication signal for said access point," is moot. Fantaske does not overcome Lee's above deficiency. Therefore, the Applicant maintains that the combination of Lee and Fantaske does not establish a prima facie case of obviousness to render Applicant's claim 1 unpatentable. Applicant's claim 1 is submitted to be allowable.

The Examiner further states the following in the Advisory Office Action:

"...Without **allocating a processor within the access point**, the selected AP is not operable with mobile stations ... Therefore, the selected access point based on the determined protocol inherently **includes a processor for communication based on one of the selected IEEE 802.11 protocols in the AP**, Therefore, one of the selected AP, **even though it is a default processor, determines a protocol associated with a communication signal from mobile station for the AP.**"

I-A(5): The Applicant maintains that the entire reference of Lee does not disclose any details of an AP or the use of a processor. Even assuming that Lee's AP utilizes a processor for communication with one of the selected IEEE 802.11 protocols, the Examiner's argument is still irrelevant in view of Applicant's arguments 1-A(1), 1-A(2) and 1-A(4) above. Specifically, Lee clearly discloses (also conceded by the Examiner in his remarks regarding Lee) that it is the wireless station which determines the protocol type in the AP. In this regard, the Examiner's allegation that the AP's "default processor" performs the alleged "determination of protocol associating with a communication signal", or the alleged "allocating a processor compatible to the protocol", is still contrary to Lee's disclosure. Fantaske does not overcome the above deficiency of Lee.

Therefore, the Examiner's argument that "**even though it is a default processor, (the default processor) determines a protocol associated with a communication signal from mobile station for the AP**" is still moot. The Applicant maintains that the combination of Lee and Fantaske does not disclose or suggest "allocating a processor within said access point, said processor compatible with said determined protocol," as recited in Applicant's claim 1.

The Examiner further states the following in the Advisory Office Action:

"As to the limitations "allocating a processor within the access point", since applicant does not claim a plurality of processors in the access point, it is not necessary that access point of Lee should have a plurality of APs to allocate a processor. The processor complying with the selected protocol should be allocated for communication between mobile station and AP..."

I-A(6): Whether Applicant's claim 1 recites a plurality of processors in the access point or not, the Examiner's argument is still moot in view of Applicant's arguments I-A(1) to I-A(5).

The Examiner further states the following in the Advisory Office Action:

"As to limitations "processing by the allocated processor", **Lee selects the best AP based on the selected protocol of mobile station**, and the selected processor in AP, even though it is only one processor within AP, it should have protocol compliance with the selected protocol of MS and process the communication signal. Therefore, the examiner respectively disagrees. Note: The Examiner fully understands the applicant's invention and description of Lee's invention, however, **the claim language can be interpreted in a different way** as disclosed by the combination of Lee and Fantaske. For example, **applicant claims only "a protocol", not a plurality of protocols and "allocating a processor" in stead of allocating one processor among a plurality of processors. Therefore, ordinary person in the art can interpret the broad claim limitations in a different view.**"

I-A(7): Whether Applicant's claim 1 recites "a plurality of protocols", or "allocating one processor among a plurality of processors" in the access point or not, the Examiner's argument is still moot in view of Applicant's arguments I-A(1) to I-A(5).

The Examiner further states the following in the Advisory Office Action:

"..with respect to **claim 2**, applicant argues that the combination of Lee, Fantaske and Schmidt fail to disclose "selecting the allocated processor from a pool of available processors within the AP, for the processing of the communication signal."

In reply, applicant unexpectedly keep arguing the DSPs used in wireless mobile. How DSP can be only used in wireless mobile station? DSP used in wireless mobile can be definitely applied to any device needed to implement a specific function. Ordinary person in the art definitely knows that digital signal processors (DSPs) is used to operate optimally on specific problems as described in col.5, lns.51-59 and the bank of DSPs can be optimized to handle discrete cosine transforms as described in col.5, lines 59-66, whereas one of the processors can be used to handle other specific operation such as operating for one of the selected IEEE 802.11 protocols. Therefore, multiple DSPs disclosed by Schmidt can be applied to the specific protocols in system of Fantaske, even into wireless mobile and/or AP, because DSP is configured to operate optimally on specific problems/tasks as suggested by Schmidt. Further, ordinary person in the art know

that DSP is designed for containing architectural optimizations to speed up processing and these optimizations ...”

I-A(8): The Examiner seems to have misunderstood Applicant’s arguments in claim 2. To further clarify, the Applicant (see page 14-15 of the 9/2/2010 response) argues that Schmidt’s DSPs (the alleged pool of available processors”) are implemented in a wireless station, not in an AP. The Applicant did not argue that DSPs cannot be implemented in an AP. The Applicant simply argued that the allegation that Schmidt discloses or suggests implementing DSPs into an AP for the purpose of allocating the DSP (specific to a determined protocol) for processing the signals (the alleged “pool of available processors for the processing of the communication signal”) is unsupported. In this regard, the Applicant maintains that Schmidt does not overcome the deficiencies of Lee and Fantaske, and claim 2 is submitted to be allowable.

The Applicant maintains the arguments in the 9/2/10 response to both the independent and dependent claims.

CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-31 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Patent Agent at (312) 775-8093.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Date: October 7, 2010

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